

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 27**

DENVER CENTER FOR THE PERFORMING ARTS,

Employer,

Case No. 27-RC-8366

and

DENVER THEATRICAL, STAGE, FILM, AND
EXHIBITION EMPLOYEES UNION, LOCAL NO. 7,

Petitioner.

DECISION AND DIRECTION OF ELECTION

On January 10, 2005, Denver Theatrical, Stage, Film, and Exhibition Employees Union, Local No. 7, herein "the Petitioner," filed a petition under Section 9(c) of the National Labor Relations Act, as amended, herein "the Act," seeking to represent all full- and regular part-time audio engineers employed by Denver Center for the Performing Arts, herein "the Employer," excluding production managers, supervisors as defined in the Act, office clericals, and guards.

On January 19, 2005, a hearing was held before a hearing officer of the National Labor Relations Board. At the hearing, the Petitioner amended its petition to clarify that the job classification it was seeking to represent was the Employer's sound designers/operators. The Petitioner also amended its petition to reflect that, under the procedures established by the Board in The Globe Machine and Stamping Co., 3 NLRB 294 (1937), and Armour & Co., 40 NLRB 1333 (1942), it was seeking an Armour-Globe election to determine whether to include the Employer's sound designers/operators in

an existing bargaining unit that it already represents that consists of the Employer's stagehands.

The Petitioner has represented the stagehands bargaining unit since at least 1980. The Petitioner and the Employer currently are party to a collective-bargaining agreement for the stagehands, the term of which is July 1, 2003, through June 30, 2006. The sound designers/operators never have been included in that bargaining unit or covered by the collective-bargaining agreement. There is no evidence to show that the Employer's sound designers/operators have been represented for collective-bargaining purposes.¹

This case presents two issues to be resolved: (1) whether the sound designers/operators share a sufficient community of interest with the stagehands for them to be included in the existing unit, and (2) whether the sound designers/operators are professional employees within the meaning of the Act. The Employer contends that a unit that includes the sound designers/operators with the stagehands would not be an appropriate unit because the sound designers/operators are a separate discrete group, and that the sound designers/operators are professional employees who cannot be included in a unit of nonprofessional stagehands. The Employer submits that the sound designers/operators are an appropriate unit by themselves and that, if they desire to be represented by the Petitioner, they should be included in their own separate unit. In contrast, the Petitioner contends that the sound designers/operators share a sufficient

¹ The record reflects that during approximately the last five years, the Employer has used "guest" or "outside" sound designers on two or three occasions for some very large musical productions. The evidence indicates that another labor organization, United Scenic Artists, has represented such outside sound designers for purposes of collective bargaining. There is no evidence that these outside sound designers were employed by the Employer, and no party to this proceeding contends that they should be included in any election directed in this matter.

community of interest with the stagehands for them to be included in the same unit and that they are not professional employees.

As is discussed further below, I conclude that the sound designers/operators share a community of interest with the stagehands and that they may be included in the existing unit if the sound designers/operators vote for the Petitioner. Additionally, I conclude that the sound designers/operators are not professional employees and that, in any event, the Act does not prohibit the Board from including professional and nonprofessional employees in an otherwise appropriate unit where, as here, the professionals will be afforded the opportunity to vote on whether they wish to be included in such a mixed unit.

Under Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the Regional Director. Upon the entire record in this proceeding, I find:

1. The hearing officer's rulings are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the Act and it is subject to the jurisdiction of the Board. The parties stipulated, and I find, that the Employer is a not-for-profit corporation engaged in the staging of theater, dance, and other arts and entertainment productions in Denver, Colorado. During the past 12 months, the Employer derived revenues valued in excess of \$500,000, and it purchased and received at its Denver, Colorado facility, goods and materials valued in excess of \$5,000 directly from suppliers located outside the State of Colorado.

3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

4. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.

5. It is appropriate to direct an election in the following group:

All full-time and regular part-time sound designers/operators employed by Denver Center for the Performing Arts; excluding all office clerical employees, guards, production managers, and supervisors as defined in the Act.

If a majority of the valid ballots in the election are cast for the Petitioner, the sound designers/operators will be deemed to have indicated their desire to be included in the existing unit of stagehands currently represented by the Petitioner and that labor organization may bargain for the sound designers/operators as part of that unit. If a majority of ballots are cast against representation, the sound designers/operators will be deemed to have indicated the desire to remain unrepresented.

FACTUAL FINDINGS

A. Background

The Employer is involved in presenting on-stage performance productions and events, including plays. One of the Employer's divisions is the Denver Center Theatre Company, which is a resident theatre company that produces and presents several plays through an annual production season lasting approximately 36 to 40 weeks. The production season usually includes 11 or 12 productions. This season includes only 9 productions. The Theatre Company presents its productions at the Employer's "Bonfils Theatre Complex," which has four separate theatres, known as the Center Theatre, the

Stage Theatre, the Ricketson Theatre, and the Jones Theatre. Each theatre has a stage and one or more control booths. In some theatres there is a separate sound booth, while in other theatres there is only one booth which includes the sound function.

The Employer employs sound designers/operators to help prepare and present the various productions. At the time of the hearing in this proceeding, the Employer had four sound designers/operators. Generally, the sound designers/operators' job is to handle activities necessary for the actualization of theatre sound for rehearsals and performances, including the design and fabrication of music and sound effect recordings and the installation, operation, and removal of sound equipment. Usually, one sound designer/operator is assigned to each production. The sound designers/operators typically have a background in theatre and music and technical expertise in operating electronic sound equipment. The Employer does not require any formal education or any degree to qualify for a sound designer/operator position. None of the current sound designers/operators has a Masters degree, and only one has a Bachelors degree. That person received his Bachelors degree in Theatre Arts. The sound designers/operators' direct supervisor is the Director of Sound, John Pryor.² Pryor reports to Barbara Sellers, the Theatre Company's Producing Director. Sellers is responsible for all technical and production elements related to the Theatre Company's productions.

The Employer also employs stagehands. The stagehands supply the manual labor that is necessary to prepare a stage so that it can be used to present a production to the public. At the present time, the Employer has approximately seven stagehands. Typically, two stagehands are assigned to each production. The stagehands' direct

² The parties stipulated that Pryor is a supervisor within the meaning of Section 2(11) of the Act. As the record supports this stipulation, he will be excluded from the unit found appropriate.

supervisor is House Foreman Chris Kendall. Kendall reports to Dan McNeil, the Technical Director. McNeil, in turn, reports to Producing Director Sellers.

The sound designers/operators and the stagehands usually work 40-hour regular workweeks, plus overtime. Their work hours frequently overlap. The sound designers/operators have an office with individual phone lines for each sound designer/operator, while the stagehands do not have an office or individual phone lines. The sound designers/operators and the stagehands have different fringe benefits. For example, the sound designers/operators participate in Employer-sponsored health and pension plans, while the stagehands participate in a Union-sponsored health plan and a multiemployer pension plan under their collective-bargaining agreement. Also, the sound designers/operators do not get sick leave, while the stagehands do get sick leave.

B. The Sound Designers/Operators

The sound designers/operators generally follow a standard procedure, which they repeat for each of the several seasonal productions. A description of that procedure follows.

Once a sound designer/operator is assigned to work on a production in the early design stage, the director begins to work with the sound designer/operator and other members of the design team to communicate the director's artistic vision or concept.³ As part of the design process, the director discusses with the sound designer/operator the sound elements that are needed for the production, including sounds such as music, weather, animals, etc. Some directors have very specific ideas about the sounds that

³ The design team also includes a costume designer, a set designer, and a lighting director.

they want. For example, the director of “A Selfish Sacrifice” had specific ideas about the type of Nigerian music that he wanted for the show. The sound designer/operator purchased Nigerian music CDs for the director, and the director selected the songs that he wanted. The director told the sound designer/operator which songs he wanted to use and where he wanted them in the show. Other directors rely more on the sound designer/operator to use judgment to come up with appropriate sounds. In the written program materials that audience members receive before a show starts, the sound designer/operator is listed along with the director and the set, costume, and lighting designers. Those materials also include biographical information about the sound designer/operator and the other designers.

After the sound designer/operator reviews the sound needs with the director, the sound designer/operator works independently to locate sounds that may fit with the director’s vision. During that process, the sound designer/operator generally works in an office that is reserved for the sound designers/operators, the sound library, and a sound studio and editing room. Those areas are located in the backstage area near the theatres. The sound designer/operator uses various sources to locate appropriate sounds. The sound designer/operator may conduct research on the Internet or in a library to gain basic knowledge about historical periods or locations. The sound designer/operator may look through materials in the sound library, which has a collection of recorded sounds that may be searched through use of the “FileMaker Pro” software program. The sound designer/operator also may purchase music CDs that include songs that match a particular production. Sometimes, the sound designer/operator is required to use recording equipment to capture unique sounds that

cannot be located elsewhere. For example, on one occasion, a sound designer/operator went to a barn to record the sound of a horse kicking a door.

As the sound designer/operator collects possible sounds for use in the production, he or she consults with the director to assess which of the gathered sounds are best suited to the director's vision. There may be informal discussion between the director and the sound designer/operator about sound selections. In all cases, the final decision regarding which sounds to use rests with the director.

Once particular sounds are selected, the sound designer/operator places them on recorded tapes. As part of that process, the sound designer/operator uses a computer editing system with specialized software. The sound designer/operator uses those tapes to produce the sounds at rehearsals and public presentations.

As the production comes together, the sound designer/operator sets sound equipment in the theater. During that "load-in" process, the sound designer/operator moves items like speakers, mixers, players, and processors into the stage area and the sound booth. Load-in can take anywhere from one day to two weeks, depending on the size of the production.

Once rehearsals begin, the sound designer/operator works in the theatre's sound booth, from which he or she operates the equipment that amplifies sounds into the production. As the stage manager calls cues, the sound designer/operator plays the selected sounds at the proper times. By attending rehearsals, the sound designer/operator learns how to implement the sound design for the show. The sound designer/operator receives rehearsal notes, which include information about production modifications.

Similarly, during public presentations, the sound designer/operator works in the sound booth to produce the appropriate sounds on cue. In theatres with a separate sound booth, no one else is present in the sound booth with the sound designer/operator. Usually, the sound designer/operator does not have any wardrobe requirement during public presentations. On rare occasions, the sound designer/operator may have to dress in black to minimize visibility to the audience.

C. The Stagehands

Like the sound designers/operators, the stagehands also generally follow a standard procedure for each of the seasonal productions. The stagehands' first step in the process of helping to put together a production occurs during load-in. The stagehands are responsible for movement and placement of scenery and props that will be used during stage presentations. The stagehands receive scenery from scene shop employees who build the scenes. The stagehands move the scenery onto the stage. They also place the scenery in the desired locations. Additionally, the stagehands rig or hang scenic elements at various stage locations.

During public presentations, the stagehands handle scenery and prop changes to establish the physical settings for the various scenes in the productions. At presentations, the stagehands usually dress in black clothing to minimize their visibility to the audience. As they attend to their duties, the stagehands may wear costumes so that they will appear to be an integrated part of the production.

Generally, the stagehands do not participate in the artistic design process. They ordinarily do not consult with the directors, nor do they attend design conferences. However, the stagehands are licensed in pyrotechnics, and they may consult with the

artistic staff to develop any pyrotechnic effects. The Employer does not identify the stagehands in the program materials that it provides to audiences.

D. The Relationship Between the Sound Designers/Operators and the Stagehands

During the load-in process for each production, the sound designer/operator and the stagehands work simultaneously in the theatre to prepare the stage and the control booths for the production. The sound designer/operator is occupied with preparing elements necessary for sound production such as speakers and cables, while the stagehands are occupied with the placement of the scenic elements. Because the sound designer/operator and the stagehands are present in the same general area at the same times, they have to coordinate among themselves so that they all are able to perform their duties with minimal disruption. The sound designer/operator and the stagehands talk to each other, and to their respective supervisors, to coordinate their activities. They are physically present in the same workspace for much of their workday.

Additionally, during load-in, the sound designer/operator periodically receives assistance directly from the stagehands. The stagehands help the sound designer/operator hang speakers, especially when speakers need to be placed in hard to reach places such as catwalks. The stagehands also help the sound designer/operator run cables, and they coordinate various tasks such as drilling in areas that are difficult to access. Stagehands also help the sound designer/operator move heavy equipment into and between sound booths. The frequency of such interaction varies from production to production, because some productions use many speakers and other productions use few speakers. On average, the sound designer/operator

receives assistance from stagehands for approximately two hours per day during load-in. Frequently throughout the load-in process, the sound designer/operators and the stagehands take breaks together in an area known as the “three corners” or in another area referred to as the “green room.”

Once public presentations begin, the sound designer/operator and the stagehands continue to be present at the same time to perform their respective duties in the theatre area. The sound designer/operator works in the sound booth, operating the sound equipment producing the needed sounds on cue. The stagehands work nearby, handling tasks such as setting scenery for the production. Occasionally, the stagehands may be called upon to produce a sound for a production, such as the sound of a door slamming.

ANALYSIS

A. The Community of Interest Between the Sound Designers/Operators and the Stagehands

In determining whether a petitioning union appropriately may add unrepresented employees to an existing bargaining unit, the Board examines the extent to which the employees to be included share a community of interest with the unit employees. See Warner-Lambert Co., 298 NLRB 993, 995 (1990). For the reasons set forth below, I conclude that the sound designers/operators and the stagehands share a sufficient community of interest to permit inclusion of the sound designers/operators in the existing unit of stagehands, if the sound designers/operators vote for representation by the Petitioner.

**1. The Record Demonstrates that the Sound Designers/
Operators and the Stagehands Share a Community of
Interest**

To decide if there is a community of interest among different groups of employees, the Board may consider several factors, including the degree of integration of their work functions, the frequency of their contact, and the nature of their supervision. See Kalamazoo Paper Box Corp., 136 NLRB 134, 137 (1962). Consideration of such factors demonstrates the existence of a community of interest between the sound designers/operators and the stagehands.

The record shows that the sound designers/operators' and the stagehands' respective work functions for the Theatre Company are integrated to a significant degree. They each exercise responsibility with regard to aspects of the stage preparation and presentation for the Theatre Company's various productions. The sound designers/operators handle the development and implementation of the sound requirements for the productions, and the stagehands handle implementation of the physical scenery, both of which are necessary aspects of the productions. In short, they all are part of a common enterprise whose goal is to put on successful artistic productions for the public.

Additionally, the sound designers/operators and the stagehands have significant contact with each other in the performance of their duties. During the load-in process, they work in the same areas in the theater complex, during the same work hours, in a common effort to prepare the theatre for public presentations. They frequently have to coordinate their activities to ensure the efficient completion of their respective tasks. The sound operators/designers receive assistance directly from the stagehands with

regard to placement of speakers and other sound equipment. Throughout load-in, the sound designers/operators and the stagehands take periodic breaks together. During presentations, they continue to work together in the theatre in the common effort to put on a successful production. Over the course of a full production season, the sound designers/operators and the stagehands repeat their interactions through the multi-day load-in and presentation processes for approximately a dozen different productions.

The related nature of the sound designers/operators' and the stagehands' work is reflected in the common supervision above the first level. While they report directly to different first level supervisors, they all work under the general supervision of Barbara Sellers, the Theatre Company's Producing Director, who has overall responsibility for the productions.

2. The Employer Has Not Demonstrated that There is an Absence of a Community of Interest Between the Sound Designers/Operators and the Stagehands

In contending that the sound designers/operators may not appropriately be included in the existing stagehands unit, the Employer relies on the existence of certain differences between them. For example, the Employer points out that the sound designers/operators are involved in artistic collaboration with directors while the stagehands are not; the sound designers/operators have work duties and skills that differ from those of the stagehands; the two groups have different terms and conditions of employment; and the two groups do not share the same first-line supervisors. While the record shows that some such differences exist in those and other areas, I conclude that those differences do not render a combined unit inappropriate.

In an Armour-Globe setting, the Board only requires that there be a sufficient community of interest between the unrepresented group and the existing unit, so that the combined unit would be an appropriate unit. I find, based on the factors discussed above, that there is a sufficient community of interest between the sound designers/operators and the stagehands to warrant including the sound designers/operators in a unit with the stagehands, if the sound designers/operators vote for representation by the Petitioner.

Additionally, the Employer cites certain Board cases to support its contention that the sound designers/operators may not be included in the stagehands unit because the stagehands have their own identifiable community of interest that is separate from the sound designers/operators. See Charlotte Amphitheater, 314 NLRB 129, 141-142 (1994); Six Flags Over Georgia, 215 NLRB 809 (1973); and American Zoetrope Productions, 207 NLRB 621 (1973). None of those cases, however, compels exclusion of the sound designers/operators from the existing stagehands unit. The question in the case at hand, as in all cases, is whether the unit sought by the petitioner is an appropriate unit, not the most appropriate unit. In Charlotte Amphitheater, the Board determined only that it was not required that maintenance employees be included in a unit with stagehands, not that the stagehands necessarily had to be included in their own separate unit. Six Flags Over Georgia is also inapposite, as the Board determined in that matter only that a petitioned-for unit of stage technicians was an appropriate unit, not that such a unit was the only possible appropriate unit. The Board's decision in American Zoetrope Productions did not involve a self-determination election. Moreover, that matter did not involve stagehands, sound designers/operators, or similar types of

employees, but dealt instead with editorial workers in the motion picture industry, including film editors, sound editors, assistant editors, and negative cutters. Thus, American Zoetrope has limited application to the instant proceeding and does not preclude the self-determination election sought herein.

Finally, the Employer contends that inclusion of the sound designers/operators in the stagehands unit would disrupt the longstanding bargaining relationship between the Employer and the Petitioner with respect to the stagehands. That contention is not persuasive, as the Board traditionally has permitted the expansion of longstanding existing units through self-determination elections like the one that is directed here. See Armour & Co., 40 NLRB 1333 (1942).

B. The Sound Designers/Operators Are Not Professional Employees

For an employee to be classified as a “professional employee” under the Act, the employee must meet the criteria set forth in either Section 2(12)(a) or Section 2(12)(b). Section 2(12)(a) defines “professional employee” as any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work, (ii) involving the consistent exercise of discretion and judgment, (iii) of such a character that the output or result cannot be standardized in relation to a given period of time, and (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or hospital, as distinguished from a general academic education or apprenticeship or training in the performance of routine mental, manual, or physical processes. Section 2(12)(b) defines “professional employee” as any employee who (i) has completed courses of specialized

intellectual instruction and study described in Section 2(12)(a)(iv) and (ii) is performing related work under the supervision of a professional person to qualify himself as a professional as defined in Section 2(12)(a).

The Employer's basis for claiming that the sound designers/operators are professional employees is that they are part of the design team that creates the artistic productions. Assertedly, the sound designers/operators' involvement in that creative process requires them to perform work that is intellectual and varied in character, involves the consistent exercise of discretion and judgment, is not subject to standardization, and requires advanced knowledge.

I conclude that the sound designers/operators are not professional employees under either Section 2(12)(a) or (b) of the Act. Even assuming that the work the sound designers/operators perform may be intellectual and varied, that it may involve the consistent exercise of discretion and judgment, and that it may not be subject to standardization, their work does not require knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or hospital.

The record evidence reflects that it is not necessary for the sound designers/operators to have any formal education or degree to perform their jobs. In fact, the Employer does not require a degree to qualify for the position. None of the current sound designers/operators has a Masters degree, and the evidence reflects that only one of them has a Bachelors degree. The Employer expects only that candidates have a general background in theatre and music and that they are able to operate electronic sound equipment. That sort of background, which can be acquired without

attending a prolonged course of specialized instruction and study in an institution of higher learning, is not indicative of professional employee status. See Avco Corp., 313 NLRB 1357, 1357-1358 (1994) (if few employees in a job category possess a professional degree, then the work does not require the use of advanced knowledge).

In comparable situations involving employees with artistic and/or design responsibilities, the Board has deemed the employees to be nonprofessionals. See, e.g., Skimore, Owings & Merrill, 192 NLRB 920, 921 (1971) (interior design and graphics department employees not professional employees because they are engaged in work that is “more of an art than a profession”); Binghamton Press Co., 226 NLRB 808, 810 (1976) (newspaper photographers deemed to be nonprofessionals, because their work is more akin to interior designers whose work is more art than profession); The Sun, 329 NLRB 854, 856-857, 862 (1999) (finding that advertising department’s “creative services” employees, who used computer program to create original art work, were not professional employees).

In any event, even if the sound designers/operators are professional employees, the Act does not absolutely prohibit their inclusion in a bargaining unit with the nonprofessional stagehands. Under Section 9(b) of the Act, the Board may not decide that a unit is appropriate if such unit includes both professional and nonprofessional employees unless a majority of the professional employees votes for inclusion in a unit with the nonprofessionals. The Petitioner seeks an Armour-Globe election, in which the sound designers/operators will have the opportunity to vote whether they wish to be included in a unit with the stagehands. The sound designers/operators will be included in the existing unit of stagehands only if a majority of the sound designers/operators

vote in favor of such inclusion. Consequently, I conclude that, even if the sound designers/operators are professional employees, the voting procedure here satisfies the requirements of Section 9(b). The Act does not prohibit the Board from including professional and nonprofessional employees in an otherwise appropriate unit where, as here, the professionals will be afforded the opportunity to vote on whether they wish to be included in such a mixed unit.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the Undersigned among the employees in the Unit found appropriate at the time and place set forth in the Notice of Election to issue subsequently, subject to the Board's Rules and Regulations.⁴ Eligible to vote are those in the Unit as described above who are employed by the Employer during the payroll period ending immediately preceding the date of this Decision and Direction of Election, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike, which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States Government may

⁴ Your attention is directed to Section 103.20 of the Board's Rules and Regulations. Section 103.20 provides that the Employer must post the Board's Notice of Election at least three full working days before

vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by:

**DENVER THEATRICAL, STAGE, FILM, AND EXHIBITION
EMPLOYEES UNION, LOCAL NO. 7.**

LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties in the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Co., 394 U.S. 759 (1969); North Macon Health Care Facility, 315 NLRB 359 (1994). Accordingly, it is hereby directed that within seven (7) days from the date of this Decision, two (2) copies of an election eligibility list containing the full names and addresses of all the eligible voters shall be filed by the Employer with the Undersigned, who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office, National Labor Relations Board, 700 North Tower, Dominion Plaza, 600 Seventeenth Street, Denver, Colorado 80202-5433 on or before **February 16, 2005**. No extension of time to file this list shall be granted

the election, excluding Saturdays and Sundays, and that its failure to do so shall be grounds for setting aside the election whenever proper and timely objections are filed.

except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision and Direction of Election may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, DC 20570. This request must be received by the Board in Washington by **February 23, 2005**. In accordance with Section 102.67 of the Board's Rules and Regulations, as amended, all parties are specifically advised that the Regional Director will conduct the election when scheduled, even if a request for review is filed, unless the Board expressly directs otherwise.

Dated at Denver, Colorado this 9th day of February 2005.

B. Allan Benson, Regional Director
National Labor Relations Board
Region 27
700 North Tower, Dominion Plaza
600 Seventeenth Street
Denver, Colorado 80202-5433